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Legal Alert

Australian Mineral Resources Rent Tax

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The bills introducing the Australian Mineral Resources Rent Tax (MRRT) and the extension of the Petroleum Resources Rent Tax (PRRT) from offshore to onshore petroleum mining have now passed through the House of Representatives. The bills are expected to pass through the Senate next year and become law with a start date of 1 July 2012.

Summary

The key elements of the MRRT are as follows:

- the MRRT taxes profits from mining operations for selected commodities, namely iron ore, coal and certain derivatives of these commodities;
- the tax is calculated for each financial year starting on or after 1 July 2012;
- liability is calculated by multiplying the “mining profit” less “MRRT allowances” by the applicable MRRT rate (30%), although an extraction allowance reduces the effective tax rate to 22.5%;
- "mining profit" is assessed on the basis of mining revenue less mining expenditure; and
- allowances provide further reductions in the amount of the tax base including for royalties paid to State Governments, certain losses and "starting base", that is, broadly investments before 2 May 2010 and certain expenditure after 2 May 2010 between 2 May 2010 and 1 July 2012.

Preparation for MRRT

Miners will need to commence preparation for the MRRT and PRRT extension. In particular, they will need to:

- review joint venture agreements to ensure that joint venturers especially minority stakeholders have adequate access to records (such as those showing expenditure) to ascertain their MRRT liabilities and deductions;
- ensure that records of all mining expenditure after 2 May 2010 are kept, so that they can claim available deductions or depreciation for mining expenditure against future mining revenue;
- if they elect to use a market value starting base, ensure that proper valuations are undertaken. As valuation can have a significant impact on the MRRT liability, it is expected that valuations will be closely scrutinised by the Australian Taxation Office;
- review all expenses directly or indirectly related to upstream mining operations to identify what will be deductible and what will not be deductible; and
- where the mining revenue is calculated with reference to market value eg for exported commodities, consider how market value should be ascertained, given the challenges of determining market

value in the context of rapidly fluctuating prices for commodities over short periods of time.

Comment

The introduction of the MRRT (and PRRT extension) comes at a time when similar taxes are under consideration in other countries such as Brazil, China and India. At a time of burgeoning commodity prices and uncertain tax revenues, attempts by Governments to tax mining profits in this way is perhaps not unexpected.

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